



Information and Privacy  
Commissioner/Ontario  
Commissaire à l'information  
et à la protection de la vie privée/Ontario

# ORDER P-896

Appeal P-9400687

Ministry of Environment and Energy



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## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of Environment and Energy (the Ministry) received a request for documentation pertaining to the Alexandria Landfill site (the landfill site).

The Ministry located responsive records and granted the requester full access to them. The requester appealed the Ministry's decision on the basis that more records should exist.

A Notice of Inquiry was provided to the Ministry and the appellant. Representations were received from both parties. The sole issue in this appeal is whether the Ministry's search for records was reasonable in the circumstances of this appeal.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where the requester provides sufficient details about the records which he or she is seeking and the Ministry indicates that such records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Ministry to prove with absolute certainty that the requested records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

In her representations, the appellant outlines her reasons for believing that more records should exist. In support of her argument, she refers to the records that she did receive and to events relating to the landfill site. Specifically, she believes that documentation relating to Certificates of Approval, and the actual Certificates of Approval pertaining to extensions or enlargement of the landfill site and several reports pertaining to specific incidents or meetings, should exist.

The Ministry's representations include the sworn affidavits of a Senior Environmental Officer (the Officer) who is responsible for this landfill site, and the Technical Support Clerk (the Clerk), Environmental Approvals and Planning, Eastern Regional Office of the Ministry, who conducted the search for responsive records at that location.

The Clerk indicates that she searched through the Eastern Regional Approval files kept on site in the Regional office, and all responsive records were identified and disclosed to the appellant. She confirms that no additional records were created by the Approvals and Planning Unit of the Ministry which would be responsive to the request.

The Officer states that he searched through both active and archived District Office files on the landfill site

and consulted with the Environmental officer who was responsible for the landfill site prior to the Officer's involvement. He indicates that he also consulted with the Regional Freedom of Information and Privacy Co-ordinator for the Ministry to determine if any additional records might have been located in that office.

The Officer's affidavit indicates that during the search for responsive records, five additional pages of records were located. These records were forwarded to the Ministry's Freedom of Information and Privacy Co-ordinator. In its representations, the Ministry indicates that upon review of these pages, it was determined that they were not responsive to the request. The responsiveness of these records is not at issue in this appeal. The Officer confirms that, with the exception of these five pages, no records, other than those disclosed to the appellant, were located.

The Ministry acknowledges that certain records identified by the appellant probably were created, however, a thorough search through relevant files failed to produce them and the Ministry is unable to explain why they were not in the files. The Officer further states that it is possible that some of the information referred to by the appellant may not have been documented in written form.

After careful consideration of the representations of the parties and the affidavits provided by the Ministry, I am satisfied that the Ministry has taken all reasonable steps to locate any records which may be responsive to the appellant's request.

**ORDER:**

I uphold the Ministry's decision.

Original signed by: \_\_\_\_\_  
Laurel Cropley  
Inquiry Officer

\_\_\_\_\_ March 30, 1995